

**US Army Corps
of Engineers**
Baltimore District

Planning Division

PUBLIC NOTICE

APR 14 2004

Environmental Assessment

Smith Island Environmental Restoration and Protection, Somerset County, Maryland

The U.S. Army Corps of Engineers, Baltimore District, (Corps) has prepared an Environmental Assessment (EA) to address the proposed construction modifications to the Smith Island Environmental Restoration and Protection Project. The project involves three areas resulting in protection of 216 acres of wetlands and 504 acres of submerged aquatic vegetation (SAV), in addition to creation of 24 acres of wetland and 1,440 acres of SAV habitat. Minimal adverse impacts were anticipated for the initial project as documented in the May 2001 Integrated Feasibility Report and Environmental Assessment. However, during the design and specifications phase of the project, it was determined that access channels and a temporary causeway would be needed for construction.

The dredged channels would allow the rock barges to access the project site during construction. The sand causeways would be used to provide land access for the equipment necessary to build the breakwaters. The material for the causeways would be brought in from the mainland. After the breakwaters are constructed, the material would be incorporated into the marsh restoration. Material dredged from an offshore borrow site ("Borrow Area 2" in the May 2001 EA) would also be used in marsh restoration. The access channels would be allowed to silt in independently once construction of the breakwaters is complete.

The Smith Island Environmental Restoration and Protection Project was authorized by a resolution of the House of Representatives on September 28, 1994. The EA and unsigned Finding of No Significant Impact (FONSI) are transmitted for your review and comment in compliance with the Council on Environmental Quality's regulations for implementing the procedural provisions of the National Environmental Policy Act, as amended.

The comment period will close 30 days after the date of this notice. Written comments received on or before this date will become part of the written record and will be considered in the determination. The FONSI will be signed upon review of comments received and resolution of significant objections, if any. No public hearing is scheduled. If you believe a public hearing is needed, please explain in writing why a hearing is necessary and mail it to the address below during the 30-day review period.

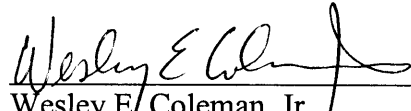
In accordance with Section 401 of the Clean Water Act, a water quality certification was obtained from the Maryland Department of the Environment for the original project, dated May 13, 2002. The Corps is required to obtain a revised water quality certification for this action. Any written comments, which relate to water quality certification, must be received by the Wetlands and Waterways Program at the address below within 30 days of the date of this notice

to receive consideration. The 401 certifying agency has a statutory limit of one year in which to make its decision.

Maryland Department of the Environment
Wetlands and Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

The Corps has determined that the proposed activity complies with and would be conducted in a manner that is consistent with the Maryland Coastal Zone Management Program. Any comments relating to the consistency determination should be sent to the Maryland Department of the Environment, Wetlands and Waterways Program at the address in the above paragraph within thirty days of the date of this notice.

The EA may also be viewed on the web at http://www.nab.usace.army.mil/publications/non-reg_pub.htm. Questions, comments, or requests for additional copies of the report should be directed to the U. S. Army Corps of Engineers, Baltimore District, Attn: CENAB-PL (Grundy), P. O. Box 1715; Baltimore, Maryland 21203-1715. Ms. Grundy may be reached by telephone at (410) 962-6136 or 1-800-295-1610, via fax at (410) 962-4698, or via electronic mail at Jo.Ann.Grundy@usace.army.mil.



Wesley E. Coleman, Jr.
Chief, Civil Project Development Branch

SMITH ISLAND MARTIN WILDLIFE REFUGE SOMERSET COUNTY, MARYLAND

ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

APRIL 2004

**Submitted by:
U.S. Army Corps of Engineers**

**In Cooperation with:
Somerset County, Maryland**



**U.S. Army Corps of Engineers
Baltimore District**

FINDING OF NO SIGNIFICANT IMPACT

In accordance with the National Environmental Policy Act of 1969, as amended, the U.S. Army Corps of Engineers, Baltimore District, has assessed the environmental effects of construction modifications to the Smith Island Environmental Restoration and Protection Project, Maryland. Various alternatives were evaluated to ensure the constructability of the restoration and protection project. The alternatives included no action, dredging access channels, and constructing a temporary causeway.

Plans at these areas that form the initial recommended project (Smith Island, Maryland Environmental Restoration and Protection Project, Integrated Feasibility Report and Environmental Assessment, May 2001) are estimated to protect approximately 216 acres of wetlands and 504 acres of SAV over a 50-year life span. This would also create 24 acres of wetland and 1,440 acres of SAV habitat over the same time. Minimal adverse impacts were anticipated for the initial project. However, during the design and specifications phase of the project, it was determined that access channels and a temporary causeway would be needed to construct the project.

The dredged channels will allow the rock barges to access the project site during construction. The sand causeways will be used to provide land access for the equipment necessary to build the breakwaters. The material for the causeways will be brought in from the mainland. After the breakwaters are constructed, the material will be incorporated into the marsh restoration. Material that will be dredged from an offshore borrow site – identified as “Borrow Area 2” in the May 2001 EA, will also be used in the marsh restoration. The material will be planted with native marsh species. The access channels will be allowed to silt in independently once construction on the breakwaters is complete.

For all work, impacts to waters of the United States have been minimized to the extent practicable. Appropriate and practicable steps to minimize potential adverse impacts will be incorporated into the project. However, the projects incorporate appropriate measures to minimize impacts, such as avoiding SAV beds, utilizing a diffuser on the hydraulic dredge to reduce scour and turbidity, and stabilizing exposed soils. The proposed work will not have an adverse effect on any threatened species or their critical habitat. Work will also not have an effect on any property eligible or on the National Register of Historic Places.

The accompanying environmental assessment supports the conclusion that the project does not constitute a major Federal action affecting the quality of the human environment. Therefore, an environmental impact statement is not necessary to implement the construction modifications for the Smith Island Martin Wildlife Refuge environmental restoration project in Somerset County, Maryland.

A review of this EA concludes that the project complies with the Clean Water Act’s Section 404(b)(10) guidelines for discharge of fill material. The State of Maryland issued a 401 State Water Quality Certification that expires in April 2006.

All appropriate coordination has been conducted with the Maryland State Historic Preservation

Office (SHPO). No impacts to the cultural resources of Smith Island are expected.

This review supplements and affirms the Finding of No Significant Impact (FONSI) for the Smith Island, Maryland Environmental Restoration and Protection Project. That finding was based on an integrated Environmental Assessment dated May 2001.

This action is based on the Environmental Assessment dated March 2004 for Smith Island Martin Wildlife Refuge, Somerset County, Maryland.

Robert J. Davis, Jr.
Colonel, Corps of Engineers
District Engineer

TABLE OF CONTENTS

1.0 INTRODUCTION	1
2.0 EXISTING CONDITIONS	5
3.0 ALTERNATIVES.....	6
4.0 ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION.....	6
4.1. AIR QUALITY	6
4.2. NOISE	6
4.3. HAZARDOUS MATERIALS	6
4.4. NATURAL/ECOLOGICAL FEATURES.....	7
4.5. RARE, THREATENED/ENDANGERED SPECIES.....	7
4.6. WATER QUALITY.....	7
4.7. ESSENTIAL FISH HABITAT.....	7
4.8. EFH CONCLUSIONS.....	10
4.9. AQUATIC RESOURCES.....	10
4.10. SOCIO-ECONOMICS	11
4.11. CULTURAL RESOURCES.....	11
5.0 COMPLIANCE WITH ENVIRONMENTAL QUALITY STATUTES.....	12
6.0 CONCLUSIONS.....	13
7.0 COORDINATION.....	13

LIST OF TABLES & FIGURES

Figure 1: Location map - Smith Island, showing Martin National Wildlife Refuge

Figure 2: Submerged Aquatic Vegetation map

Table 1: Fish species and their life history stages for which the Chesapeake Bay waters in the vicinity of Smith Island are designated as EFH

APPENDICES

APPENDIX A: Section 404(b)(1) Evaluation

APPENDIX B: Plates

APPENDIX C: References

APPENDIX D: Correspondence

Environmental Assessment Smith Island Martin Wildlife Refuge

1.0 Introduction

1.1 Project Background

A feasibility report with an integrated Environmental Assessment (EA) completed in May 2001 determined that the tremendous loss of submerged aquatic vegetation (SAV) around parts of Smith Island could be stopped and, to an extent, reversed by protecting and restoring lost wetlands in the Martin National Wildlife Refuge. The study concluded that the most cost-effective and reliable way to accomplish restoration was to construct offshore, segmented breakwaters to protect or recreate strategic areas along the coastline of the refuge. The 2001 EA is incorporated by reference.

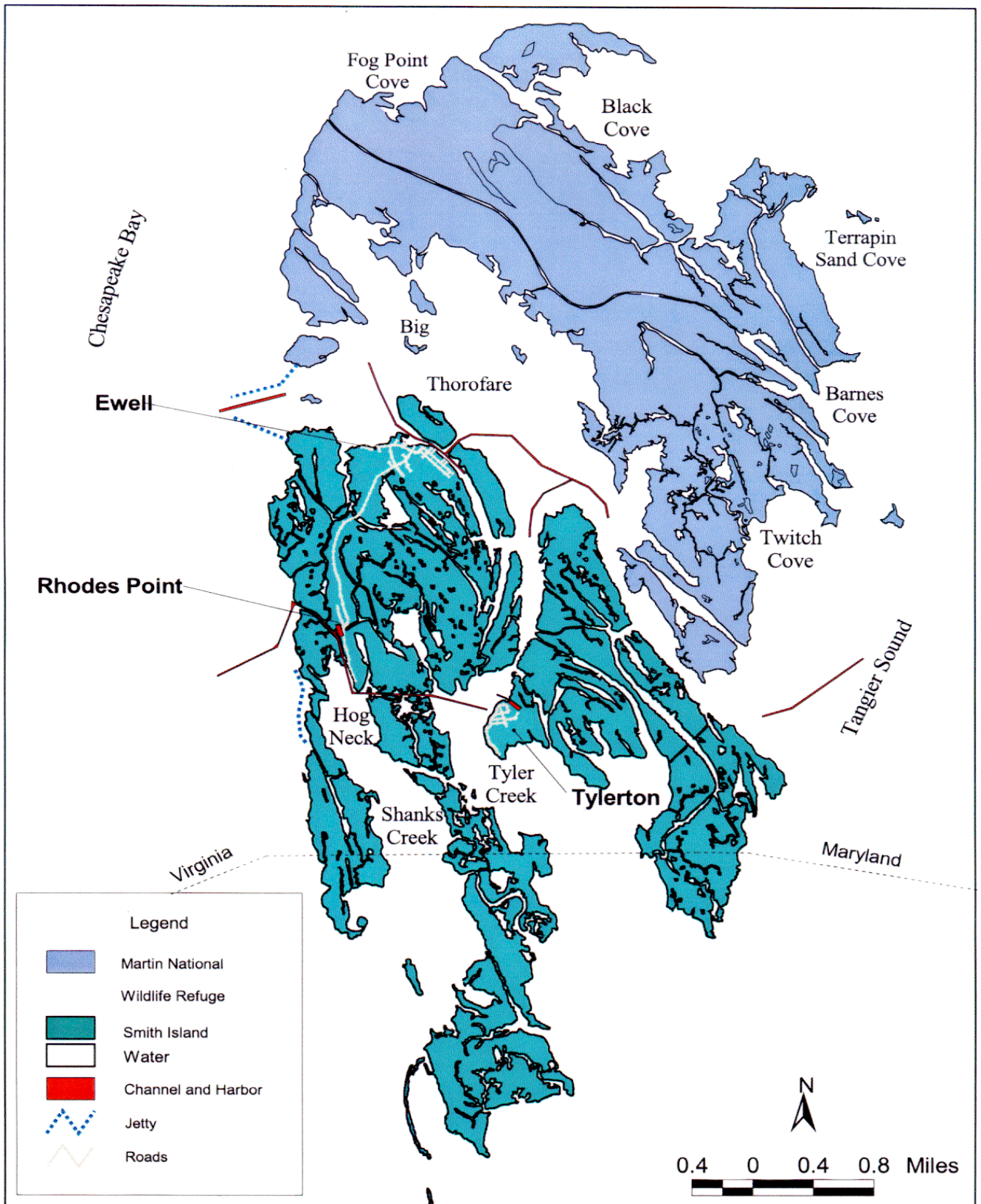
Smith Island is an ecologically significant cluster of marshy landmasses separated by tidally influenced guts and open water. Over the past 150 years, the island has lost over 30-percent of its area to erosion. Smith Island is within a chain of islands that form the western boundary of Tangier Sound (Figure 1), and is within the area of highest submerged aquatic vegetation (SAV) concentration in Chesapeake Bay (Figure 2). The island itself is approximately 97-percent wetlands. These wetlands provide valuable habitat for a range of wildlife, and this value is enhanced by the protection offered by virtue of being on a remote island. The northern half of the island comprises the Martin National Wildlife Refuge and is undisturbed by direct human influence. There is a high rate of erosion, 8 to 12 feet per year in some areas, continuing to threaten and destroy valuable habitat and impact the residents of Smith Island.

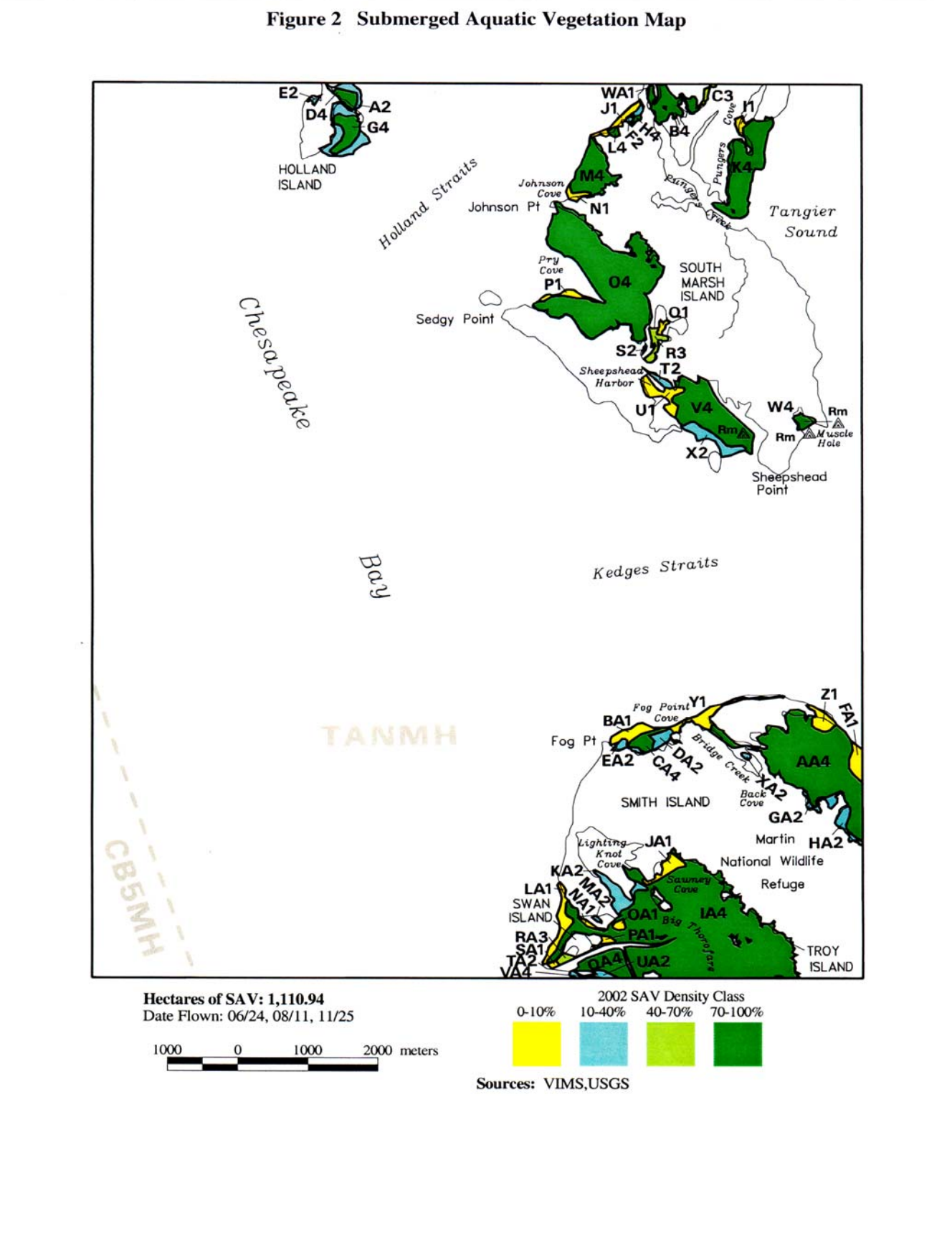
During the feasibility study, various measures were examined to protect/restore submerged aquatic vegetation (SAV), shallow water habitat and emergent marshland along the Martin Wildlife Refuge in the northern half of the island. The most cost effective and reliable way to accomplish this was to construct offshore, segmented breakwaters to protect or recreate strategic areas along the coastline of the Refuge. In many areas, the breakwaters will be backfilled using borrow material from the Bay bottom west of the island. This backfill will create additional wetland habitat and greatly increase the effectiveness of the structures.

Plans at three areas that form the recommended project are estimated to protect approximately 216 acres of wetlands and 504 acres of SAV over a 50-year life span, while at the same time creating 24 acres of wetland and 1,440 acres of SAV habitat over the same time. Minimal adverse impacts were anticipated for the initial project. However, during the design and specifications phase of the project, it was determined that access channels and temporary causeway(s) would be needed to construct the project (See Plates 1 & 2).

The dredged channels will allow the rock barges to access the project site during construction. The sand causeways will be used to provide land access for the equipment necessary to build the breakwaters. The material for the causeways will be brought in from the mainland. After the breakwaters are constructed, the material will be incorporated into the marsh restoration.

Figure 1 Location map - Smith Island, showing Martin National Wildlife Refuge





Material that will be dredged from an offshore borrow site - identified as "Borrow Area 2" in the May 2001 EA (See Plate 3) will also be used in the marsh restoration. The material will be planted with native marsh species. The access channels will be allowed to silt in independently once construction on the breakwaters is complete. The causeway to be constructed between Swan and Silver Islands will be dismantled following completion of the breakwaters.

1.2 Description of Proposed Action

Two access channels would be hydraulically dredged near Silver Island. The channels would be a maximum of 50 feet wide with an average depth of approximately -8.0 feet MLLW. One channel would be approximately 1600 feet long the other would be approximately 1100 feet long. The two channels are required to bring stone and causeway sand into the site by barge and access the breakwaters located in shallow water. The dredged material will be placed in the nearshore area and would be incorporated into the marsh creation portion of the project. The temporary causeway(s), on Swan Island, would be constructed by placing sand landward of the location of the proposed breakwaters. The causeway(s) are necessary to gain access to construct the breakwaters because the water depths are too shallow to allow construction from barges. Equipment cannot be driven on the breakwaters because their footprint is too narrow.

At locations along the northerly portion of the project where the existing bottom elevations are generally deeper, construction and material access will be directly from water. However, the shallower southerly portion of the project requires dredging access channels at two locations as shown on the plans, primarily for material access. The existing channel at the southerly terminal end of the project has sufficient depth and does not require dredging for access. Dredging access channels into the project area has been minimized to the fullest extent possible. 50' wide channels dredged to -8' MLLW are proposed to allow large quantities of stone to be barged to the island along these shallow offshore locations. Once the stone is ashore, the material will be hauled along causeways to the various breakwaters. Providing stone to the 24 offshore breakwaters located in shallow water using lightly/partially loaded barges would be extremely expensive and problematic due to changing tides and increased barge traffic to supply the large quantities of required materials (i.e. riprap and fill).

The construction schedule involves constructing breakwaters #25-55 directly from the water (See Plate 4). The construction site of breakwater #1 will be accessed from an existing channel to the southeast. Sand imported from the mainland will be placed landward of breakwaters #2-6 to construct the temporary causeways to facilitate further construction.

Dredge channels will provide access to construction sites for breakwaters #7-24. Once construction of the breakwaters is complete, the imported sand will be repositioned behind the breakwaters. Hydraulically placed sand obtained from the offshore borrow site will be covered by the imported sand behind the breakwaters. After the fill is allowed to settle, it will be planted with *Spartina alterniflora*, or similar vegetation.

The access channels were positioned to minimize the travel distance for vehicles transporting material to the individual breakwater sites. Generally, the longest haul distance is about ¼ mile.

As referenced above, the existing channel at the southerly terminal end of the project on Swan Island has adequate water depth, thereby not requiring dredging.

The two access channels are located at the breakwater's gaps. The contract documents specify that the contractor shall maintain a 50' minimum clearance between the edge of the breakwaters and the dredged channel. Access from the edge of the channel to the shoreline will be by shallow draft deck barges and/or flexifloats. Due to the severe site conditions, it is anticipated that the access channels will ultimately fill in to the original pre-dredged depths.

1.3 Purpose and Need

Smith Island is an ecologically significant cluster of marsh landmasses separated by tidally influenced guts and open water. Over the past 150 years, the island has lost over 30-percent of its area to erosion. Smith Island is part of a chain of islands that form the western boundary of Tangier Sound, and is within the area of highest SAV concentration in Chesapeake Bay.

The access channels and temporary causeway are necessary to provide access to construct the breakwater system that will protect the island from further erosion.

2.0 Existing Conditions

Smith Island is a dramatic mix of SAV, estuarine wetlands and scattered upland hammocks, appearing like islands of high ground within vast expanses of high and low marsh. At low tide, large mudflats ring the low marsh and blur the distinction between land and water. The result is an ecological system that provides an exceptional diversity of marsh vegetation and its associated wildlife. As a result, Smith Island is a haven to dozens of bird species and is one of the most important blue crab fisheries in the United States. The vast majority of the island is wetland, with only isolated patches of upland. The wetlands that surround small upland areas and are surrounded by mud flats and SAV, create a diverse and productive habitat.

The northern part of Smith Island constitutes the Martin National Wildlife Refuge. The refuge includes approximately 4,500 acres of undeveloped marshes, shores, and upland areas. The marsh areas are ecologically valuable as habitat for birds, invertebrates, fish, reptiles, and mammals and for their role in local and regional nutrient cycling. Most of the refuge is composed of estuarine emergent wetlands bisected by numerous tidal creeks. Of the 12 hammocks on the island that contain important wading bird rookeries, three are within the refuge boundaries. Several other wooded ridges, dunes, and former dredged material disposal sites in the refuge provide upland nesting sites for colonial waterbirds, waterfowl, and raptors. These sites also provide important resting and staging areas for migratory songbirds. These sites are especially valuable because development, human disturbance, cultivation, and exposure to predation by domestic animals on nearby mainland areas has diminished and threatened such critical habitat elsewhere. Scarcity of useable habitat has become a major problem in the Chesapeake Bay region and highlights the need to protect and expand, where possible, the resources of the Martin National Wildlife Refuge. Two pairs of threatened American peregrine falcons are currently using nesting towers in the refuge.

3.0 Alternatives

A. No Action

The offshore breakwaters could not be constructed without access channels and the temporary causeway(s). Due to the size and narrow footprint of the breakwaters, they cannot be used for equipment access. Therefore, this alternative is not acceptable.

B. Dredge Access Channel

Channels would be dredged to provide access for stone and imported sand fill material barges. Channels would maintain a 50-foot minimum clearance from the edge of the breakwaters. The channels would be a maximum of 50 feet wide with an average depth of approximately -8.0 feet MLLW. One channel would be approximately 1600 feet long the other would be approximately 1100 feet long. Access to the shoreline would be with deck barges/flexifloats. The channel lengths/depths are the minimum necessary to provide barge access during all tidal ranges.

C. Construct Temporary Causeway(s)

These causeway(s) will be constructed by placing and grading sand barged to the site, from an approved source on the mainland. The causeway will be constructed parallel to the shoreline. Individual sandspurs originating from the main causeway will extend to the various breakwaters to provide construction access. The dimensions of the causeways will vary. It is anticipated that their width will be on the order of 10'-15' with a top elevation of about 2'-3' above MHW. Fill material would be discharged between the proposed breakwaters and the shoreline and within the footprint of the marsh creation areas.

4.0 Environmental Impacts of the Proposed Action

4.1 Air Quality

Somerset County meets the National Ambient Air Quality Standards (NAAQS) for attainment. Aside from emissions generated by construction equipment, no impacts on air quality are expected. The vehicle emissions are expected to be minor and temporary. Following construction, air quality should return to pre-project condition.

4.2 Noise

Noise during construction will be produced by construction equipment, such as dredges, bulldozers, trucks, and workboats. Smith Island is known to have extremely valuable colonial nesting bird populations and minor, temporary impacts to breeding birds may occur.

4.3 Hazardous Materials

No known hazardous, toxic, or radioactive substances are within the project footprint. The majority of the area is in pristine condition and no impacts are expected. Best management

practices will be used during construction to minimize oil and gas spills from equipment. If spills occur, or HTRW materials are found, appropriate measures will be taken to insure adequate clean up or removal.

4.4 Natural/Ecological Features

Impacts to natural resources in the area are expected to be minor and temporary. The access channels will naturally fill back in and the causeway material will be used in the restoration of the tidal marsh habitat on the refuge.

4.5 Rare, Threatened/Endangered Species

A few transient Rare, Threatened, and Endangered (RTE) species are known to visit Martin Wildlife Refuge. No impacts to these species are expected. If RTE species are found during construction, the appropriate agencies will be notified and additional coordination will follow.

4.6 Water Quality

Temporary, localized impacts to water quality as a result of increased turbidity are expected from construction and bottom disturbance. This will fall outside the range of natural conditions along the shoreline. However, the sediment will settle after construction and turbidity conditions will return to normal. Care will be taken to prevent spills of gasoline or oil from construction equipment. If spills occur, the appropriate authorities will be contacted and clean up actions put into place.

Impacts will be avoided to the greatest extent by limiting the area required for construction of causeways and access channels. Dredged channels and causeway dimensions were designed to meet only the minimum area requirements necessary for equipment access. Silt fences were proposed but MDE and the Corps did not think it would survive in the area due to wave energy. Therefore, it will not be used during construction. The contractor will develop an erosion and sediment control plan that would be approved by MDE. If turbidity at the site becomes excessive, the Corps will work with MDE to resolve any issues. BMPs will be implemented such as using fill materials with minimum fines, and limiting the amount of unstablized fill to wave action.

4.7 Essential Fish Habitat (EFH)

The Magnuson-Stevenson Fishery Conservation and Management Act requires that EFH areas be identified for each fishery management plan and that all federal agencies consult with the National Marine Fisheries Service (NMFS) on all federal actions that may adversely affect EFH. EFH areas have been designated by the fishery management councils and were published in March 1999 by National Oceanic and Atmospheric Administration (NOAA) and NMFS as the "Guide to Essential Fish Habitat in the Northeastern United States, Volume V: Maryland and Virginia." A federal agency must identify the species of concern and prepare an analysis of the effects of the proposed action. The agency must also give its views regarding the effects of the

proposed action and proposed mitigation if applicable. The NMFS has suggested that the EFH analysis and determination be incorporated as part of the NEPA process rather than in a separate document such as a biological assessment, as is prepared for endangered species.

Table 1: Fish species and their life history stages for which the Chesapeake Bay waters in the vicinity of Smith Island are designated as EFH.

Species Common Name	<u>Scientific Name</u>	Eggs	Larvae	Juveniles	Adults
Bluefish	<i>Pomatomus saltatrix</i>			X	X
Cobia	<i>Rachycentron canadum</i>	X	X	X	X
King mackerel	<i>Scomberomorus cavalla</i>	X	X	X	X
Red drum	<i>Sciaenops ocellatus</i>	X	X	X	X
Spanish mackerel	<i>Scomberomorus maculatus</i>	X	X	X	X
Summer flounder	<i>Paralichthys dentatus</i>			X	X
Sandbar shark	<i>Charcharinus plumbeus</i>		X		
Dusky shark	<i>Charcharinus obscurus</i>		X		X

Bluefish:

Bluefish juveniles may be present during construction if it is done during summer months. However, because of their high mobility they should be readily able to relocate from the project area to avoid direct detrimental impacts. Few if any juveniles are likely to be directly impacted by placement of rock or marsh substrate material in colder weather months because bluefish juveniles are expected to be absent or few in number. The loss of about 23.5 acres of shallow open water, once the marsh restoration is complete, would cause a minor indirect impact to bluefish juveniles as a consequence of habitat loss. However, this loss will be readily balanced by conversion of marsh to open water habitat elsewhere in the northern coastal bays by erosion. The increase in rock on the breakwaters and other habitat structure afforded by the marsh will likely benefit juvenile bluefish.

The bluefish travels in schools, especially in deeper water. The waters of the Eastern Shore of Maryland are especially important to the juveniles. There may be late summer populations of bluefish near Smith Island, although they are not likely to be found nearshore.

Summer Flounder:

Juveniles and adult summer flounder may be in the project area during construction occurring during warmer weather months. However, because of their high mobility, they should easily be able to avoid any detrimental impacts and can relocate elsewhere within the abundant shallow water habitat of the coastal bays. Neither juveniles nor adults are likely to be present during construction during colder weather months because they leave the coastal bays. Indirect impacts to summer flounder are expected to be largely beneficial, although minor. Loss of shallow open water, due to the marsh restoration, would cause a minor adverse indirect impact to summer flounder juveniles and adults as a consequence of habitat loss. However, this loss will be

readily balanced by conversion of marsh to open water habitat elsewhere in the northern coastal bays by erosion. Juvenile summer flounder will likely utilize the edges of the created marsh. Adults will likely benefit from increased prey produced by the marsh.

Cobia:

This species is generally found in the southern part of the bay. Therefore it is unlikely that the project components would impact the species, in any life stage.

Red Drum:

This project occurs so far north in the bay that there is a very rare chance of impacting any life form of this species or its prey items.

Spanish Mackerel:

The project will likely take at least a year to construct. This species generally over-winters off the southern Atlantic coast but could be in the area at some point during construction in the spring and summer. Since it is a highly mobile species, it will likely avoid the area temporarily and will not be adversely impacted. The project also will not impact the prey items for this species.

King Mackerel:

Since no life stages of this species have ever been reported in the project area, or the Upper Bay, no impacts to this species are expected. No impacts to its prey items are anticipated from either component of the project.

Dusky Shark:

Neonate and juvenile dusky shark could potentially be present during construction in warmer weather months, however because of their high mobility they should easily be able to avoid any direct negative impacts. In addition, shallow water at the site will likely preclude larger individuals from being present at any time of year, reducing the risk of direct impacts. Because the species moves out of the area during colder weather months, it is unlikely that any dusky shark would be present during construction in colder weather months, therefore no direct impacts would be expected at those times of year. Because of the limited information available on this species life history, it is unknown how the project will indirectly impact this species. However, because the species has a wide range and impacts will be minor in scale in comparison, it is expected that any indirect impacts would be insignificant.

Sandbar Shark:

Neonate and juvenile sandbar shark may be present during construction in warmer weather months, however because of their high mobility they should easily be able to avoid any direct negative impacts. Larger individuals and adults would be unlikely to be present because of the shallow water depths, therefore no direct impacts would be expected at any time of year. Because the species moves out of the area during colder weather months, it is unlikely that any sandbar shark would be present during construction in colder weather months, therefore no direct impacts would be expected at those times of year. Because of the limited information available on this species life history, it is unknown how the project will indirectly impact this species. However, because the species has a wide range and impacts will be minor in scale in comparison, it is expected that any indirect impacts would be insignificant.

4.8 EFH Conclusions

A review of impacts of the proposed projects on EFH was conducted in accordance with requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Baltimore District has determined that the proposed access channel and causeway construction projects would only cause minor adverse impacts to EFH. However, the projects incorporate appropriate mitigation measures to minimize impacts, such as avoiding SAV beds and utilizing a diffuser on the hydraulic dredge to reduce scour and turbidity. The Baltimore District has concluded that the proposed access channels and causeways are necessary to construct a project that should positively impact EFH quality by creating/restoring marsh that will compensate for ongoing and historic losses of this habitat in Chesapeake Bay. Accordingly, the proposed actions that will be taken to construct breakwaters and marsh restoration are in compliance with the provisions of the Magnuson-Stevens Act, as amended.

Indirect impacts resulting from destruction of benthos within the areas to be dredged are expected to be minor and temporary. Benthos within the channels to be are expected to be relatively tolerant of disturbance because the sites are high energy, have mobile sand substrates, and are subject to shoaling and scouring under existing conditions (USACE, 1998). Consequently, substantial recovery of these areas should occur within several months following dredging. Full recovery of benthos within the dredged channels to a condition resembling pre-project conditions may take several years (Newell et al., 1998). Recolonization of the substrate by benthos is expected to be facilitated by the adjacent presence of undisturbed bay bottom providing a source of benthos. Sediments suspended during dredging may cause fish to temporarily avoid the area.

4.9 Aquatic Resources

The non-mobile benthic community will likely be destroyed within the construction area. However, the area will repopulate once construction is complete. The project is designed to avoid impacts to existing SAV and known oyster bars. Minor and temporary adverse impacts to phytoplankton and zooplankton are expected during construction. Conditions are expected to return to normal several months after construction. A short-term increase in turbidity during construction will cause some fish species to temporarily relocate. Best management practices

will be used to control turbidity and minimize adverse impacts to resident fish populations, such as the use of a diffuser on the hydraulic dredge to reduce scour and turbidity and the avoidance of SAV and oyster beds.

4.10 Socio-economics

No negative impacts to the socio-economic resources of the island are expected. The dredging of access channels and creation of the temporary causeway(s) are necessary to construct the segmented breakwaters that were assessed in the May 2001 report.

4.11 Cultural Resources

No impacts to the cultural resources of Smith Island are expected. The structures will be built in open water in areas that historically were fastland. The land near the projects is uninhabited, away from any prevailing historic sites. At the request of the Maryland State Historic Preservation Officer (SHPO), a Corps archeologist will conduct a pedestrian reconnaissance prior to construction and will report any findings to the SHPO.

5.0 COMPLIANCE WITH ENVIRONMENTAL QUALITY STATUTES

Compliance of the Proposed Action with Environmental Protection Statutes and Other Requirements

Federal Statutes	Expected Level of Compliance
Anadromous Fish Conservation Act	N/A
Archeological and Historic Preservation Act	Full
Clean Air Act	Full
Clean Water Act	Full
Coastal Barrier Resources Act	N/A
Coastal Zone Management Act	Full
Comprehensive Environmental Response, Compensation and Liability Act	N/A
Endangered Species Act	Full
Estuary Protection Act	Full
Farmland Protection Policy Act	N/A
Federal Water Project Recreation Act	Full
Fish and Wildlife Coordination Act	Full
Land and Water Conservation Fund Act	Full
Magnuson–Stevenson Fishery Conservation and Management Act	Full
Marine Mammal Protection Act	Full
Marine Protection, Research, and Sanctuaries Act	Full
National Historic Preservation Act	Full
National Environmental Policy Act	Full
Outer Continental Shelf Lands Act	N/A
Resource Conservation and Recovery Act	N/A
Rivers and Harbors Act	Full
Submerged Land Act	Full
Water Resources Planning Act	Full
Watershed Protection and Flood Prevention Act	N/A
Wild and Scenic Rivers Act	N/A
<u>Executive Orders (EO), Memoranda, etc.</u>	
Protection and Enhancement of Environmental Quality (E.O. 11514,1977)	Full
Environmental Justice (E.O. 12898)	Full
Protection and Enhancement of Cultural Environment (E.O. 11593)	Full
Floodplain Management (E.O. 11988)	Full
Protection of Wetlands (E.O. 11990)	Full
Recreational Fisheries (E.O. 12962)	Full

1. Levels of Compliance
 - a. Full Compliance: having met all requirements of the statute, E.O., or other environmental requirements for the current stage of planning.
 - b. Partial Compliance: not having met some of the requirements that normally are met in the current stage of planning.
 - c. Non-Compliance: violation of a requirement of the Statute, E.O., or other environmental requirement.
 - d. Not-Applicable: no requirements for the statute, E.O., or other environmental requirement for the current stage of planning.
2. Compliance will be complete after the State of Maryland issues a water quality certificate.
3. Compliance will be complete after written concurrence is received from the U.S. FWS and or NMFS.

6.0 CONCLUSIONS

The overall environmental impacts associated with the dredging of two access channels and construction of a temporary causeway have been evaluated and assessed by the U.S. Army Corps of Engineers. The Corps anticipates that adverse impacts will be temporary and minor, and that no significant adverse environmental impacts will occur. Instead, it is expected that the proposed work will be beneficial to the Wildlife Refuge once the breakwaters have been constructed. Therefore, it has been determined that the preparation of an Environmental Impact Statement is not warranted. The District has prepared a Finding of No Significant Impact (FONSI) which is provided at the beginning of this EA.

7.0 COORDINATION

Coordination has been made throughout the planning process with the following Federal and State agencies:

U.S. Fish and Wildlife Service (USFWS)
Maryland Department of Environmental (MDE)
National Marine Fisheries Service (NMFS)
Maryland State Historic Preservation Office

APPENDIX A
SECTION 404(b)(1) EVALUATION

**CLEAN WATER ACT
SECTION 404(b)(1) EVALUATION
SOMERSET COUNTY, MARYLAND**

I. Project Description

a. Location

Smith Island is located in the Chesapeake Bay west of the town of Crisfield and Tangier Sound, in Somerset County, Maryland at approximately 37° 58' 00" degrees latitude and 76° 02' 00" degrees longitude. (See Plate 1)

b. General Description

Due to the strong wave fetch and shallow water on the northwestern side of the island, the proposed project, consisting of segmented breakwaters to control island erosion, could not be constructed without the dredging of two access channels and constructing temporary causeway(s).

Two access channels would be dredged near Silver Island. The channels would be a maximum of 50 feet wide with an average depth of approximately -8.0 feet MLLW. One channel would be approximately 1600 feet long (approximately 1.85 acres) the other would be approximately 1100 feet long (approximately 1.25 acres). The two channels are required to bring stone and causeway sand into the site by barge and access the breakwaters located in shallow water. The dredged material will be placed in the nearshore area. The temporary causeway(s), on Silver and Swan Islands, would be constructed by placing sand landward of the breakwaters, within the footprint of the proposed marsh restoration area. The causeway(s) are necessary to gain access to construct the breakwaters because the water depths are too shallow to allow construction from barges. Equipment cannot be driven on the breakwaters because their footprint is too small. The breakwater causeway between Swan and Silver Islands will be dismantled after construction of the segmented breakwaters is complete.

c. Purpose

The purpose of the proposed action is to provide access to the project site for construction equipment and barges.

d. General Description of Discharge Material

(1) *Characteristics of Fill Material* - Approximately 30,000 cy (total) of medium to fine sand and silt material will be dredged to create two access channels near Silver Island. Material dredged for the access channels will be placed nearshore, landward of the breakwaters, to restore tidal wetland habitat.

(2) *Source of Fill Material* - The material being used to construct the causeway(s) will come from an approved source on the mainland. The marsh restoration will utilize the imported sand from the causeways as well as the dredged material from the access channels. Material for the causeways and cover material for the fine-grained, hydraulically dredged material will be obtained from an upland borrow pit on the mainland. Marsh substrate material will be hydraulically dredged from the previously approved offshore borrow area (See Plate 3). This borrow site will be approximately 500' wide x about 2900' long x about 2.5' deep, yielding approximately 134,000 cy of material. It is anticipated that 20% of the material dredged will be lost by the nature of hydraulic dredging. About 107,000 cy of material is actually needed to achieve the beach template.

e. Description of the Proposed Discharge Site

The dredged material from the access channels would be used in restoring the tidal marshes along the shoreline of Martin Wildlife Refuge. This area is severely eroded due to high wave action from the west. Approximately 23.5 acres of open water will be converted to marsh using the material from the causeway(s) along with finer-grained dredged material from the approved offshore borrow site (See Plate 3).

f. Description of Placement Method

The construction schedule involves constructing breakwater #25-55 directly from the water. The construction site of breakwater #1 will be accessed from an existing channel to the southeast. Sand imported from the mainland will be placed landward of breakwaters #2-6 to construct the temporary causeways to facilitate further construction.

Dredge channels will provide access to construction sites for breakwaters #7-24. Once construction of the breakwaters is complete, the imported sand will be repositioned behind the breakwaters. Hydraulically placed sand obtained from the offshore borrow site will be used to cover the imported sand behind the breakwaters. After the fill is allowed to settle, it will be planted with *Spartina alterniflora*, or similar vegetation.

II. Factual Determinations

a. Physical and Substrate Determinations

(1) *Substrate elevation and slope* – The elevation of Smith Island averages one to two feet above mean high water. Topographic changes are very gentle to essentially flat, and large expanses of shallow water (less than two feet deep) surround the island in all directions.

(2) *Sediment Type* – Sediment around Smith Island is comprised of fine sand along the western edge.

(3) *Dredged/Fill Material Movement* – The properties of the sand is expected to allow the placed material to settle and consolidate quickly. Following construction of the breakwaters, the

sand used for causeways (obtained from mainland source) will be graded shoreward of the breakwaters and then finer sand will be dredged hydraulically from offshore and placed behind the breakwaters. The coarser causeway sand will then be graded bayward to cover and stabilize the hydraulic fill, in effect allowing the sandy material to act as a barrier to the movement of the fine grained material into the water column. Because the placement sites will be planted, the material is expected to stabilize within a full season after construction. Wave and tidal action, the predominant causes of erosion, are expected to be reduced by the proposed project and no significant material movement is expected.

(4) *Other Effects* – Wave energy is expected to be dissipated, thus reducing erosion on the island.

(5) *Actions Taken to Minimize Impacts* – Impacts have been avoided to the greatest extent by limiting the area required for construction of causeways and access channels. Dredged channels and causeway dimensions were designed to meet only the minimum area requirements necessary for equipment access. The use of silt fences was discussed with State and Federal resource agencies and the Corps does not think it would survive in the area due to wave energy. Therefore, it will not be used during construction. Impacts will be avoided to the greatest extent by limiting the area required for construction of causeways and access channels. Therefore, it will not be used during construction. The contractor will develop an erosion and sediment control plan that would be approved by MDE. If turbidity at the site becomes excessive, the Corps will work with MDE to resolve any issues. BMPs will be implemented such as using fill materials with minimum fines, and limiting the amount of unstablized fill to wave action.

b. Water Circulation, Fluctuation, and Salinity Determinations

(1) *Water*

- (a) Salinity - No change expected.
- (b) Chemistry - No change expected.
- (c) Clarity - Minor and temporary reduction expected during dredging and placement due to turbidity. No long-term impact expected.
- (d) Color - Minor and temporary change expected during construction due to minor increase in turbidity. No long-term impact expected.
- (e) Odor - No change expected.
- (f) Taste - Not applicable.
- (g) Dissolved Gas Levels – Changes in dissolved gas levels and content are expected to occur at the placement sites as a result of the transition from a shallow water habitat to a tidal marsh wetland. No negative impacts are expected.
- (h) Nutrients – Minor, short-term releases of nitrogen can be expected. The material to be dredged is predominantly fine sand and silt with a low fines/organic component and nutrient releases are expected to be minimal.
- (i) Eutrophication - Not expected to occur.
- (j) Temperature - No change expected.

(2) *Current Patterns and Circulation*

- (a) Current Patterns and Flow – Minimal effects are expected.
- (b) Velocity – No changes in velocities are expected.

(c) Stratification – A minor change in stratification will occur at the placement sites when dredged material is placed over the existing substrate. The substrate is similar in composition to the dredged material, and no negative impacts are expected.

(d) Hydrologic Regime – The hydrologic regime at the placement site will permanently change from a shallow water system to a tidal marsh wetland system.

(3) *Normal Water Level Fluctuations* – A change in water depth will occur within the placement site as a result of the placement of one to two feet of dredged material allowing the conversion of a shallow water area into tidal marsh wetlands.

(4) *Salinity Gradients* - No change expected.

(5) *Actions Taken to Minimize Impacts* – The access channels and causeway(s) are temporary actions. Minimal adverse impacts are expected and will be temporary as well.

c. Suspended Particulate/Turbidity Determinations

(1) *Expected Changes in Suspended Particulates and Turbidity Levels in Vicinity of Placement Site* - Minor, localized, and short-term impacts are expected to occur in the area of the placement sites. Coarse grain-size material will rapidly settle out of suspension. Finer grained material may take 24 to 36 hours to settle. Turbidity levels are expected to rapidly return to background levels once placement is completed.

(2) *Effects (degree and duration) on Chemical and Physical Properties of the Water Column*

(a) Light Penetration - Minor, temporary, and localized reduction in light penetration is expected to occur within the contained areas during placement.

(b) Dissolved Oxygen - Minor, temporary, and localized reduction in dissolved oxygen due to turbidity may occur during construction.

(c) Toxic Metals and Organics - No toxic metals or organics are expected to be released into the water column.

(d) Pathogens - No pathogens are expected to be released into the water column.

(e) Aesthetics – Minor and temporary impacts may occur during placement of the material due to increased turbidity and the presence of manmade equipment.

(f) Temperature - No change expected.

(3) *Actions Taken to Minimize Impacts* – All work will conform to the requirements of the State Water Quality Certification.

d. Contaminant Determinations

No evidence exists to suggest the presence of contaminants in the vicinity of the proposed dredging or placement site.

e. Aquatic Ecosystem and Organism Determinations

(1) *Effects on Plankton* - Impacts from the discharge of fill materials which will result in increased turbidity during construction are anticipated to be minor and temporary. No detrimental long-term impacts are expected.

(2) *Effects on Benthos* – Temporary adverse effects are expected to occur at the dredging and placement sites during construction of the access channels and the causeway(s). Non-mobile benthic organisms will be smothered at the time of construction, however, benthos are expected to recolonize the newly stable area. A resultant long-term benefit to the benthic community expected to occur.

(3) *Effects on Nekton* - Nekton are expected to be temporarily disturbed during dredging and placement, but to return after project completion. Nekton contained at the placement site will be smothered. Long-term benefits to nekton are expected to result from the construction of a tidal marsh.

(4) *Effects on Aquatic Food Web* - The food web at the placement site will experience temporary changes from a shallow water-based to a deep water based food web in the dredge channels. However, the channels will not be maintained after construction is complete and will fill back in over time. This effect is not substantial because it will be temporary.

(5) *Effects on Special Aquatic Sites*

- (a) Sanctuaries and Refuges - This project will contribute to the larger beneficial impact on Martin National Wildlife Refuge, through erosion protection, SAV restoration, and marsh protection.
- (b) Wetlands - The dredge channels and causeway(s) will allow for the creation of approximately 4 acres of tidal marsh wetlands. This is expected to provide habitat for fish and wildlife.
- (c) Tidal flats - Not applicable.
- (d) Vegetated Shallows - Construction designs have been carefully selected to avoid vegetated areas. By reducing erosion, there may be an increase in light attenuation, leading to beneficial effects on local SAV beds.

(5) *Threatened and Endangered Species* - No effects to rare, threatened, or endangered species are expected as a result of this project.

(6) *Other Wildlife* - It is expected that shorebirds, terrapins, and other mobile species will temporarily relocate during construction.

(7) *Actions to Minimize Impact* – Measures will be taken to avoid and/or minimize impacts to any SAV beds identified prior to construction.

f. Proposed Disposal Site Determinations

(1) *Mixing Zone Determination* - Not applicable.

(2) *Determination of Compliance with Applicable Water Quality Standards* - Construction activities will be conducted in accordance with all applicable State water quality standards.

(3) *Potential Effects on Human Use Characteristic*

- (a) Municipal and Private Water Supply - Not applicable.
 - (b) Recreational and Commercial Fisheries - Construction may temporarily impede navigation activity in the immediate project area.
 - (c) Water Related Recreation - Construction may temporarily impede recreational boat use in the project area. The impacts are expected to be minor and temporary.
 - (d) Aesthetics - A temporary and minor reduction in aesthetic value within the area is expected to occur during placement of the riprap and dredged material. Long-term improvements are expected through the increase in marsh acreage and SAV.
 - (e) Parks, National and Historical Monuments, National Seashores, Wilderness Areas, Research Sites, and Similar Preserves – The Martin Wildlife Refuge will experience an increase in shoreline stability adjacent to Lightning Knot Cove. No adverse effects are expected.
- g. Determination of Cumulative Effects on the Aquatic Ecosystem – The goal of the overall project would effectively reduce erosion and the potential for breaches at four locations along the western shoreline of Smith Island. This project will, in effect, protect over 1500 acres of marsh and SAV habitat. Minor losses of shallow water habitat will be offset by protection of existing SAV, wetlands and uplands. Protection from erosion will reduce the sediment discharge within the project area, and provide a positive benefit to local SAV beds by increasing light attenuation. Thus, cumulative adverse effects on the aquatic ecosystem are expected to be minor and beneficial impacts are expected for the local area.
- h. Determinations of Secondary Effects on the Aquatic Ecosystem - The placement of dredged material will not impede the continued use of the waters surrounding Smith Island for fishing, boating, and other water-based commerce, transportation, and recreation. This represents the status quo for the Smith Island area.

III. Finding of Compliance

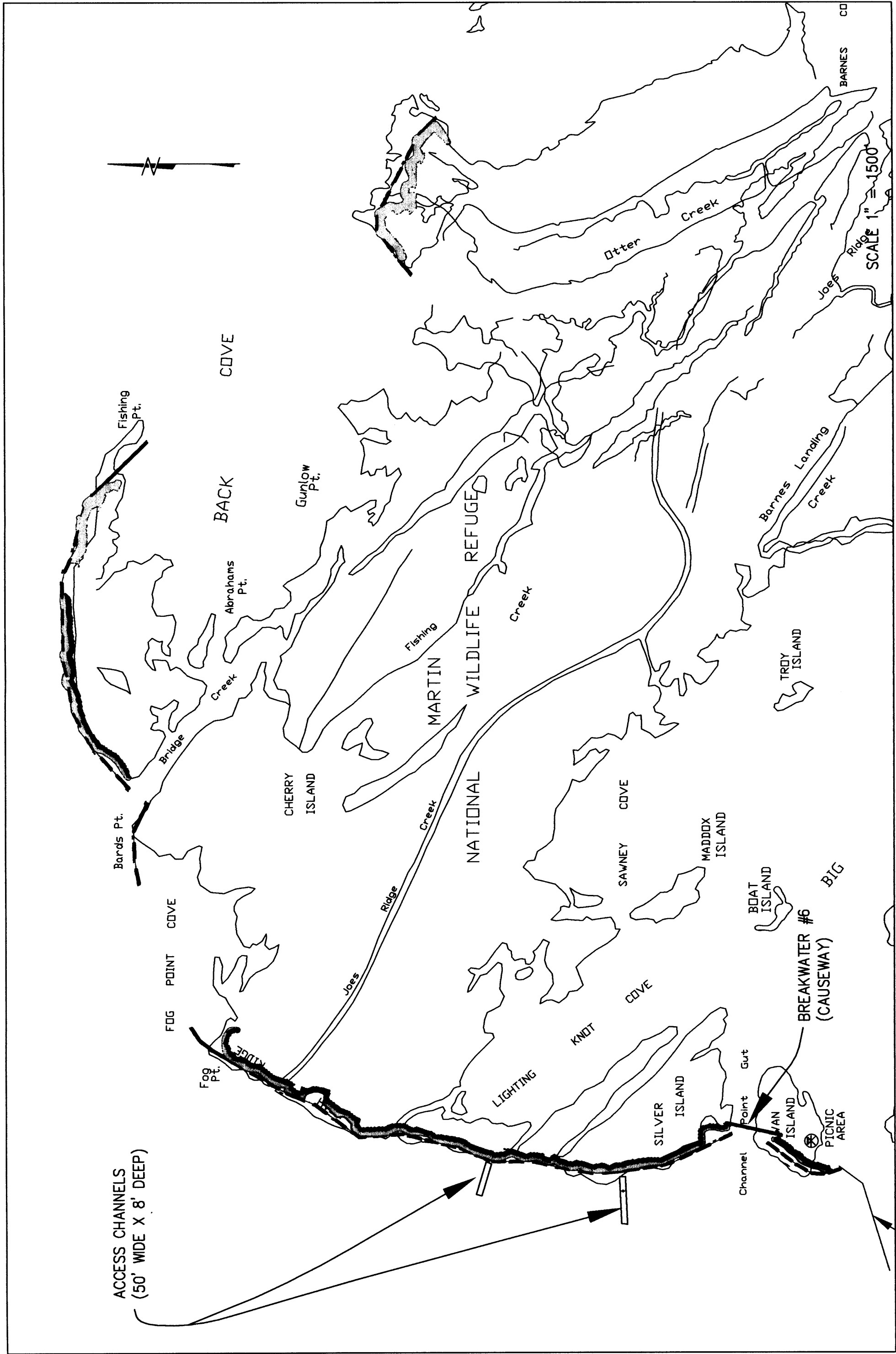
- a. Adaptation of the Section 404(b)(1) Guidelines to This Evaluation - No adaptations of the Guidelines were made relative to this Evaluation.
- b. Evaluation of Availability of Practicable Alternatives to the Proposed Discharge Site Which Would Have Less Adverse Impact on the Aquatic Ecosystem. - The project is by its nature water-dependent and will require activity within the aquatic realm.
- c. Compliance with Applicable State Water Quality Standards. - The proposed placement of fill material will comply with Maryland State Water Quality Standards.
- d. Compliance With Applicable Toxic Effluent Standard or Prohibition Under Section 307 of the Clean Water Act. - The proposed fill material is not anticipated to violate the Toxic Effluent Standard of Section 307 of the Clean Water Act.
- e. Compliance with Endangered Species Act of 1973 – The project is in full compliance with the endangered species act.
- f. Compliance with Specified Protection Measures for Marine Sanctuaries Designated by the Marine Protection, Research, and Sanctuaries Act of 1972 - No Marine Sanctuaries, as designated in the Marine Protection, Research, and Sanctuaries Act of 1972, are located

within the study area. The project is located offshore of Martin Wildlife Refuge and the project is expected to have beneficial impacts on the refuge by reducing erosion.

- g. Evaluation of Extent of Degradation of Waters of the United States - The proposed placement of fill material will not result in significant adverse impacts on human health and welfare, including municipal and private water supplies, recreation and commercial fishing, plankton, fish and shellfish, wildlife, and special aquatic sites. The life stages of aquatic life and wildlife will not be significantly adversely affected. Significant adverse impacts on aquatic ecosystem diversity, productivity and stability, and recreation, aesthetics and economic values will not occur as a result of the project.
- h. Appropriate and Practicable Steps Taken to Minimize Potential Adverse Impacts of the Discharge on the Aquatic Ecosystem – Appropriate steps to minimize potential impacts of the placement of fill material in aquatic systems will be followed such as avoiding SAV beds and utilizing a diffuser on the hydraulic dredge to reduce scour and turbidity. On the basis of the guidelines, the proposed placement sites are specified as complying with the inclusion of appropriate and practical conditions to minimize contamination or adverse effects to the aquatic ecosystem.

APPENDIX B

PLATES





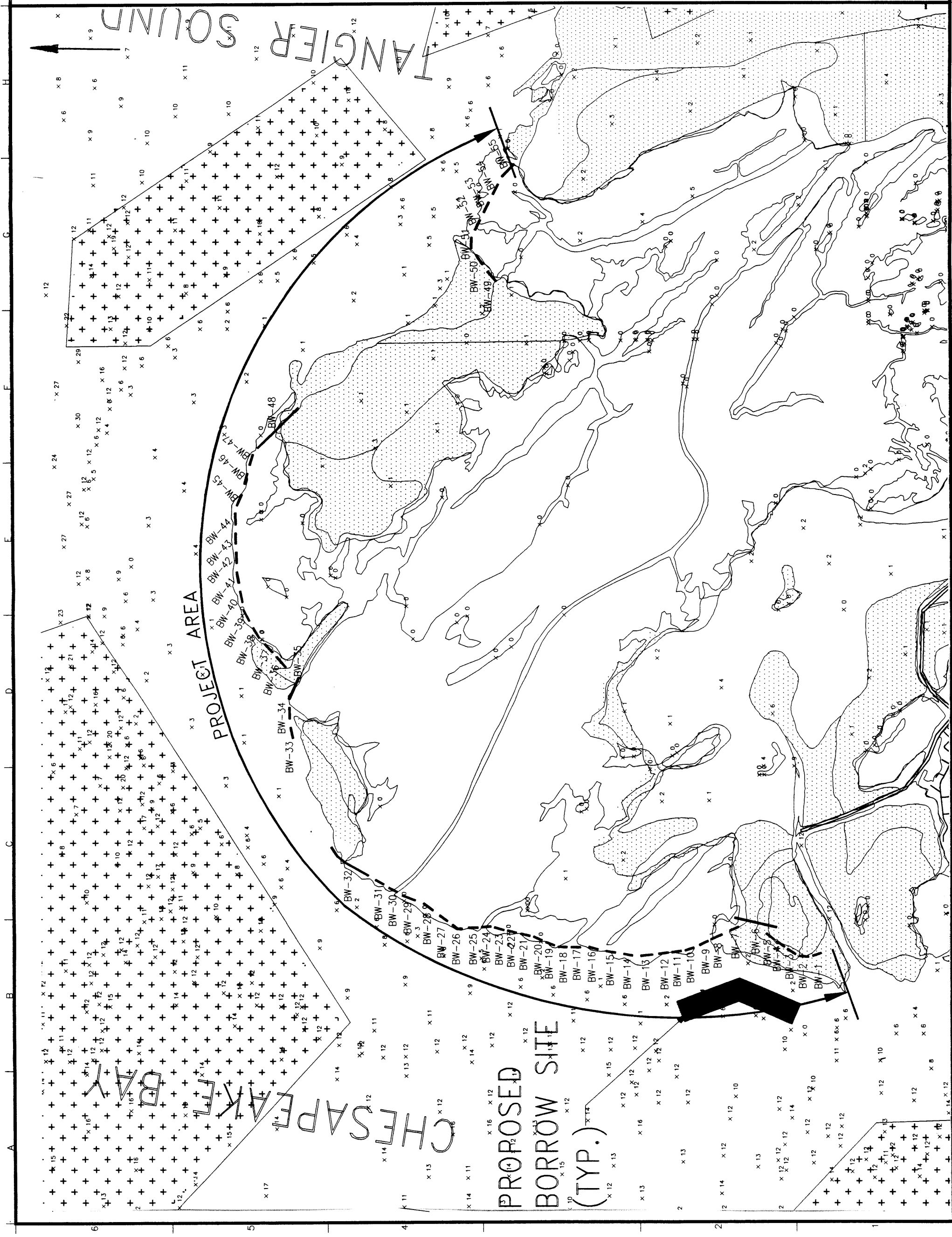
US Army Corps
of Engineers
Baltimore District

[illegible]

U.S. ARMY ENGINEERS DISTRICT, BALTIMORE	Designed by: E.T.F.	Date: AUG. 2003	Rev.
CORPS OF ENGINEERS	Drawn by: L.B.B.	Design title no.	
BALTIMORE, MARYLAND	Check by: G.O.W.	Drawing Number	
ANDREWS, MILLER & ASSOC., INC.	Reviewed by: FILE 3 MAP 664	File Name	
401 ACADEMY STREET, SUITE 1	Submitted by: Rtd. Branch	File Date: 8-6-03	Plot scale: "1"=150'

SMITH ISLAND
SOMERSET COUNTY, MARYLAND
ENVIRONMENTAL RESTORATION PROJECT
MARTIN WILDLIFE REFUGE
GENERAL PLAN

Sheet
Number:
G-4
SHEET 4 OF 19



APPENDIX C

REFERENCES

REFERENCES:

Newell, R.C., L.J. Seiderer, and D.R. Hitchcock. 1998. The impact of dredging works in coastal waters: a review of the sensitivity to disturbance and subsequent recovery of biological resources on the seabed. *Oceanography and Marine Biology: an Annual Review*, 36: 127-78.

Safina, C. 1995. The world's imperiled fish. *Scientific American*, November 1995, p. 46-53.

U.S. Army Corps of Engineers. 2001. Smith Island, Maryland, Environmental Restoration and Protection, Final Integrated Feasibility Report and Environmental Assessment.

U.S. Army Corps of Engineers. 1998. Ocean City, Maryland, and Vicinity Water Resources Study Integrated Feasibility Report and Environmental Impact Statement. Baltimore District.

U.S. Environmental Protection Agency. 1998. Condition of the mid-Atlantic estuaries. Office of Research and Development, Washington, D.C. EPA 600-R-98-147.

APPENDIX D

CORRESPONDENCE



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401



November 5, 2003

Colonel Robert J. Davis, Jr., P.E.
District Engineer
Baltimore District, Corps of Engineers
P.O. Box 1715
Baltimore, MD 21203-1715

Attn: Erika L. Mark
Biologist, Planning Division

*RE: Smith Island, MD Environmental Restoration and Protection - Supplemental
Environmental Assessment*

Dear Colonel Davis:

The U.S. Fish and Wildlife Service (Service), Chesapeake Bay Field Office, is in receipt of Baltimore District's description of proposed modifications to the Smith Island, MD Environmental Restoration and Protection project. The Service previously submitted a Planning Aid Report dated March 1997, a Fish and Wildlife Coordination Act Report dated April 2001 and a letter dated July 2001 indicating concurrence with the District's Final Environmental Assessment. We submit the following comments in support of the District's preparation of a Supplemental Environmental Assessment (EA) necessitated by plan modifications.

Baltimore District's Final Feasibility Report described a Recommended Plan for constructing approximately 20,000 feet of segmented offshore breakwaters along the shorelines of Martin National Wildlife Refuge on Smith Island. Benefits accruing to the Smith Island system and greater Chesapeake Bay system would include 216 acres of existing marsh protected from further erosion, restoration/creation of 23.5 acres of wetland, and protection of 504 acres of existing SAV. If SAV recovers to historic levels within quiescent waters created by the project, an additional 1033 acres would be realized.

In order to construct certain breakwater features in shallow waters, the District suggests two access channels be dredged and a temporary causeway constructed. Neither the access channels nor the causeway were covered under the original EA.

The two proposed access channels would be located perpendicular to the SW shore of Martin National Wildlife Refuge and would be 50 feet wide with an average depth of -8.0 MLLW. The approximately 8,500 cubic yards of dredged material would be used as fill behind constructed breakwaters.

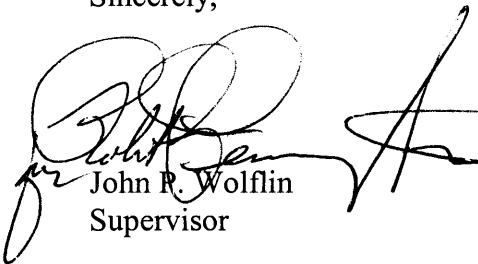
The proposed temporary causeway would span Channel Point Gut between Swan Island and Silver Island for the purpose of constructing a sill between the two islands.

The Service will likely not object to creating the access channels and causeway in order to construct the project, but please clarify the following items in your draft Supplemental EA:

- Will the access channels be allowed to silt in independently or will this process be mechanically accelerated?
- Is the District concerned about potential, localized breakwater erosion at the junction between access channel and the toe of slope of a constructed breakwater?
- Please describe the length of proposed access channels.
- The provided map materials illustrate a single causeway between Swan and Silver Islands, but the text alludes to multiple "causeway(s)."
- What are the dimensions of the proposed causeway and how much material will it require?
- Will borrow material used in causeway construction originate from the same site as the wetland-creation material as described in the Final Feasibility Study? That borrow site is to consist of long, three-foot deep sections 1,500 feet off the NW shore, yielding 68,000 cubic yards of sand.

Thank you for the opportunity to comment on the proposed project modifications. We look forward to reviewing your draft Supplemental EA. Please direct questions regarding Service recommendations to Jason Miller of my staff at (410) 573-4538.

Sincerely,



John R. Wolflin
Supervisor

cc: Chesapeake Marshlands National Wildlife Refuge
(Attn: John Gill)



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor

Kendl P. Philbrick, Acting Secretary

January 23, 2004

United States Army
Corps Of Engineers
Baltimore District, CENAB-EN-MC
P. O. Box 1715
Baltimore, Maryland 21203-1715

Attn: C. J. Winand

Re: MDE No.: 04 SF 0148
COE No.: NONE
Description: Smith Island – Martin Wildlife Refuge, Environmental
Restoration Project

Dear Mr. Winand,

The Administration has received and reviewed the submittals dated August 15, 2003 and November 3, 2003 for the above referenced project in Somerset County. The review was in accordance with Section 4-106 and 4-205 of the Environment Article, Annotated Code Of Maryland with regard to Sediment Control and Stormwater Management. The following comments are a result of the review:

General

Please reference the MDE Number, as indicated above, on all future re-submittals for this project. Resubmittals that are made by you or your consultant without a cover/transmittal letter that references the MDE Number will be grouped with new projects that are awaiting assignment to a reviewer. This will significantly delay the review and ultimately the issuance of your approval.

Stormwater Management

The Stormwater Management Waiver application is approved as submitted. The entire, final project approval (needed in order to start construction) is not complete until the erosion and sediment control issues are resolved.

Sediment Control

An e-mail communication from Mr. Kelly L. Wright, project engineer with Andrews, Miller and Assocs. Inc. indicates that plan sheet G-3 contains most of the erosion and sediment control requirements for this project and will be forwarded to this office soon. Upon review of the information on this sheet there may be additional comments from this office.

Discussions with the MDE Wetlands and Waterways Program indicates that the erosion and sediment control plan will satisfy their requirements provided that the sand used in the haul

January 23, 2004

roads (and ultimately incorporated in the design template for the wetland planting area) the sand must not interfere with establishing the wetland plants. Please address this issue on the plans.

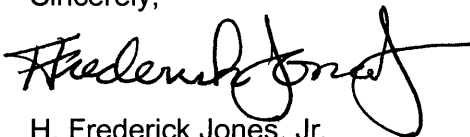
Review of this project will continue upon satisfactory response to the above comments. An item by item written response to my comments will expedite my next review. Please reference the MDE Number noted above on all future submittals. Please call me at (410) 537-3563 with any questions or comments.

The following advisement is provided by MDE as an assist to you in complying with other State requirements that may apply to your project. Please direct responses relevant to the Maryland Forest Conservation Act to the appropriate regional DNR office: Applicants are advised that application for this sediment control approval may subject the applicant to the requirements of the Maryland Forest Conservation Act (FCA). This is in accordance with Annotated Code of Maryland, Natural Resources Article, Section 5-1601, et seq., and regulations adopted thereunder. Failure to comply with the FCA may result in enforcement actions, such as monetary penalties, as imposed by the Act. For further information, please contact the appropriate regional office as indicated on the enclosed "State Forest Conservation Program" information sheet.

For your reference on future new submittals: Please be advised that the General Permit for Construction Activity has been reissued in response to new federal regulations regarding small construction activity. Under the new stormwater regulations, land disturbances between 1 and 5 acres must be covered under the general permit. The fees for permit coverage will remain the same, with construction projects between 1 and 5 acres of disturbance being subject to the minimum \$100 application fee (State and local government projects are exempt from the application fee). This advisement has no impact upon your current project.

The Maryland Erosion and Sediment Control Guidelines for State and Federal Projects are now available on MDE's web site (www.mde.state.md.us); navigate through the WATER link to the WATER INFORMATION CENTER and the STORMWATER MANAGEMENT SECTION; the final link is on the right under RELATED RESOURCE. Be advised that there have been revisions throughout the text portion that correct typographical errors and clarify issues. PLEASE NOTE the revisions also include modifications to the Standard Erosion and Sediment Control Notes. These revised Standard Erosion and Sediment Control Notes must be included, in their entirety, on the plans for all future projects submitted to MDE for approval.

Sincerely,



H. Frederick Jones, Jr.
Plan Review Division
Water Management Administration

January 23, 2004

cc: Chesapeake Bay
Critical Area Commission
1804 West Street, Suite 100
Annapolis, Maryland 21401

State of Maryland
Department of Natural Resources - Forest Service
Eastern Regional Coordinator
201 Baptist Street, Suite 22
Salisbury, Maryland 21801

Attn: Rachel Horsey

Andrews, Miller And Associates, Inc.
401 Academy Street, Suite One
Cambridge, Maryland 21613

Attn: Kelly L. Wright